

MORRISON | FOERSTER

12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO
CALIFORNIA 92130-2040

TELEPHONE: 858.720.5100

FACSIMILE: 858.720.5125

WWW.MOFO.COM

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To: Examiner Teresa D. Wessendorf
U.S. Patent and Trademark Office; art unit 1639**Facsimile: 571-273-0812****Telephone: 571-272-0812****From: Kate H. Murashige****Date: April 19, 2006**

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Comments: U.S. Application Serial No: 10/678,414
Title: MULTIHUE LABELS
Inventors: Lawrence M. KAUVAR et al.
Filed: October 2, 2003
Group Art Unit: 1639
Attorney Docket No.: 38851-20101.01

Documents attached:

1. Communication re Restriction Requirement (2 pages)
2. Copy of Preliminary Amendment filed October 2, 2003 (5 pages)
3. Copy of return receipt postcard (1 page)

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PATENT
Docket No. 388512010101

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 19 2006

In the application of:

Lawrence M. KAUVAR et al.

Serial No.: 10/678,414

Filing Date: October 2, 2003

For: MULTIHUE LABELS

Examiner: Teresa D. Wessendorf

Group Art Unit: 1639

COMMUNICATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants received an Office Action which included a Restriction Requirement and Species Election dated April 10, 2006, in the above identified U.S. patent application.

The Action indicated claims 1-42 were currently pending in this application. The application as filed included a Preliminary Amendment canceling claims 1-42 and adding new claims 43-51. A copy of the Preliminary Amendment is attached hereto, together with a copy of the return receipt postcard indicating receipt by the U.S. Patent and Trademark Office on October 2, 2003. ✓

sd-312057

Applicants therefore request a new Office Action be issued including examination of the new claims 43-51.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket No. 388512010101.

Respectfully submitted,

Dated: April 19, 2006

By: Kate H. Murashige
Kate H. Murashige
Registration No. 29,959
Morrison & Foerster LLP
12531 High Bluff Drive, Suite 100
San Diego, California 92130

Telephone: (858) 720-5112
Facsimile: (858) 720-5125

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 273019785 US, in an envelope addressed to: MS Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: 10/2/03Signature: TBA Valz

(Ruthie Vallejo)

COPYDocket No.: 388512010101
(PATENT)**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re Patent Application of:
Lawrence M. KAUVAR, et al.Application No.: Not yet assigned,
Continuation of 09/146,984

Filed: Herewith

For: MULTIHUE LABELS

Art Unit: Not yet assigned

Examiner: Not yet assigned

**RECEIVED
CENTRAL FAX CENTER****APR 19 2006****PRELIMINARY AMENDMENT**MS Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Prior to examination of the above-referenced case, please amend the specification as follows:

SD-166778

Application No.: Not yet assigned

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Docket No.: 388512010101

SPECIFICATION AMENDMENTS

On page 1 of the application, under the title, please insert:

--Cross-Reference to Related Application

This application is a continuation of U.S. Serial No. 09/146,984 filed 3 September 1998 and now allowed. The contents of this application are incorporated herein by reference.--

sd-166778

Application No.: Not yet assigned

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Docket No.: 388512010101

CLAIM AMENDMENTS

1-42. (canceled)

43. (new): A particulate label which comprises a particulate support having a diameter of no more than 100 nm which particle is bound to at least three fluorophores, wherein each said fluorophore emits a detectable signal different from that emitted by the others and wherein the magnitude of each of said emitted signals provides a distinctive hue and wherein the magnitude of the signal emitted by each said fluorophore may be varied; and
wherein said particulate support is coupled to a reagent.

44. (new): The label of claim 43, wherein the particulate support is a latex bead.

45. (new): The label of claim 43, wherein the reagent is an antibody or fragment thereof, a peptide generated from a cDNA library, a substance in a combinatorial chemistry library, or an oligonucleotide.

46. (new): The label of claim 43, wherein the reagent is coupled to the particulate support by a covalent linkage.

47. (new): The label of claim 46, wherein the covalent linkage is a disulfide or carboxamide linkage.

48. (new): The label of claim 43, wherein the reagent is linked to the particulate support by a non-covalent linkage.

49. (new): The label of claim 48, wherein the non-covalent linkage is an epitope/antibody linkage, or
a histidine/chelated NI linkage, or
comprises an agar layer in which reagent is trapped.

sd-166778

Application No.: Not yet assigned

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Docket No.: 388512010101

50. (new): A spatially defined arrangement of particulate different labels of claim 43, wherein each label is characterized by a different hue, and each particulate support is bound to a different reagent.

51. (new): The arrangement of claim 50, which is displayed on a surface to permit determination of the spatial position of said labels.

sd-166778

Application No.: Not yet assigned

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Docket No.: 388512010101

REMARKS

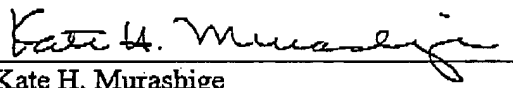
The claims have been amended to focus on particles which, surprisingly, can be made in sizes 100 nm or less and still retain the ability to couple to three fluorophores as well as a reagent. Support for such particles is found, for example, on page 8, lines 3-5 and page 12, lines 13-20. Support for claims 50-51 is found in claim 1 of the allowed application; the dependent claims track the dependent claims allowed in the parent. No new matter has been added and entry of the amendment is respectfully requested.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket No. 388512010101.

Respectfully submitted,

Dated: October 2, 2003

By:


Kate H. Murashige
Registration No. 29,959

Morrison & Foerster LLP
3811 Valley Centre Drive,
Suite 500
San Diego, California 92130-2332
Telephone: (858) 720-5112
Facsimile: (858) 720-5125

sd-166778

COPY

Inventor: Lawrence M. KAUVAR, et al.

Atty Docket No.: 388512010101

Application No.: Not yet assigned
Title: MULTIHUE LABELS

Filing Date: Herewith

Documents Filed:

Utility Patent Application Transmittal (1 page)

Fee Transmittal (1 page, 1 duplicate)

Preliminary Amendment (5 pages)

Specification (22 pages)

4 drawings (4 sheets)

Oath or declaration (3 pages)

Application Data Sheet (2 pages)

03945 U.S. PTO
10/678414



OCT 12 2003
U.S. PATENT & TRADEMARK OFFICE

Via: Express Mail: Airbill No. EV 273019785 US
Sender's Initials: KHM1/mv

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